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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,645	06/15/2001	Gerhard Beckmann	21535-008	2217

35437 7590 07/21/2003

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EXAMINER

KALAFUT, STEPHEN J

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 07/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/882,645

Applicant(s)

BECKMANN ET AL.

Examiner

Stephen J. Kalafut

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/27/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-23 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 24-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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This Action is Supplemental to the Final Office Action of Paper No. 8.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by either Farrell (US 3,580,163) or Totsuka (US 6,051,266), for reasons of record.

Claims 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Farrell (US 3,580,163).

Farrell discloses a device which includes a chamber, which is the space between a basket (15) with a bottom (25) and a top cover (17). The chamber includes an inlet (29), a coalescing surface (19), and an outlet, which comprises perforations in the bottom wall (column 2, line 72). The recitations of intended use, such as “for receiving effluent...” do not distinguish, because the present “pump” is claimed *per se*. In other words, because these claims do not require the anode or cathode chambers to be present recitations to these chambers, or effluent therefrom are not given patentable weight. The recitation of the “effluent” and “fluid” which is transported are thus given weight only in that the device must be able to transport fluid. Farrell discloses a pump stem (14) which transports liquid into the basket and space therein (column 2, lines 55-63), cooperating with the inlet (29), as shown in figures 1 and 2. Thus, the recited function of transporting fluids is met by Farrell, to the extent that it is given weight in these claims.

Claims 3-23 are allowed. Regarding claims 3-17, 19 and 20, Applicant’s arguments concerning Yen *et al.* have been found persuasive. Claim 18 was previously allowed, in paper

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no. 4, page 3. Claims 21-23 recite the combination of a fuel cell and a coalescing surface, and thus also distinguish over Yen *et al.*

Applicant's arguments filed 5/27/03 have been fully considered but they are not persuasive.

Applicant argues that devices of Farrell and Totsuka do not collect gases from a fuel cell, but instead deflect water within a coffee percolator or direct hot air out of a coffee roasting pan, and thus cannot anticipate claims 1 and 2. This is not persuasive because these claims recite a coalescing surface *per se*, and thus do not require the fuel cell, its electrode chambers, or effluent therefrom to be present. It should be noted that these are article claims, in which process recitations are not be given patentable weight. By contrast, the claims which are now allowed require a fuel cell to be present, and used in combination with the coalescing chamber.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Kalafut whose telephone number is (703) 308-0433. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on (703) 308-2383. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

sjk
July 16, 2003



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